



S/N 10/825,483

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: METZGER ET AL. Examiner: U. HO
Serial No.: 10/825,483 Group Art Unit: 3731
Filed: APRIL 14, 2004 Docket No.: 13033.5USC1
Title: STIFFENING PHARYNGEAL WALL TREATMENT

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Mail Stop Amendment, Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 on March 28, 2006.

By: *Linda M. Beckman*

Name: Linda M. Beckman

TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petitioner, Restore Medical Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 2800 Patton Road, St. Paul, Minnesota 55113, in the county of Ramsey, and the state of Minnesota represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/825,483, filed on April 14, 2004 and entitled STIFFENING PHARYNGEAL WALL TREATMENT, by virtue of our assignment recorded at Reel 013706, Frame 0220.

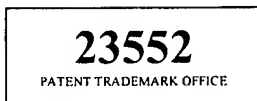
Petitioner, Restore Medical Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent Nos. 7,017,582, 6,546,936 and 6,742,524 and hereby agrees that any patent so granted on the above-identified

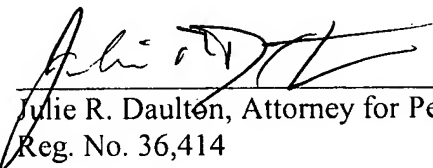
application shall be enforceable only for and during such period that the legal title to said patents shall be the same as the legal title to U.S. Patent Nos. 7,017,582, 6,546,936 and 6,742,524, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent Nos. 7,017,582, 6,546,936 and 6,742,524, in the event that United States Patent Nos. 7,017,582, 6,546,936 and 6,742,524 expire for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned is an attorney or agent of record.

Date: 3-28-06




Julie R. Daulton, Attorney for Petitioner
Reg. No. 36,414